OLR Bill Analysis

sSB 881

AN ACT CONCERNING THE POWERS OF THE STATE TREASURER, DIVESTMENT OF STATE FUNDS INVESTED IN COMPANIES DOING BUSINESS IN IRAN AND SUDAN, AND THE MEMBERSHIP OF THE TEACHERS' RETIREMENT BOARD AND THE CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION.

SUMMARY:

This bill makes various changes concerning the Office of the State Treasurer, including her personnel appointments, role on certain governing boards, appointments to the Investment Advisory Council (IAC), and investment policies in companies doing business in Iran or Sudan.

Generally, the bill:

1. authorizes the state treasurer to appoint investment personnel for duties beyond the investment of pension and trust funds;

2. eliminates a requirement that the IAC provide advice and consent for all appointments the treasurer makes;

3. makes the treasurer an ex-officio, voting member of the Teachers' Retirement Board and the State Employees Retirement Commission;

4. removes the Department of Social Services commissioner from the Teachers' Retirement Board;

5. requires the treasurer to divest existing and halt further, investments in any security or instrument issued by Iran;

6. allows her to divest existing, or decide against further or future, investments of state funds in companies doing business in Iran;

and

7. expands a similar law concerning divestment from companies doing business in Sudan.

The bill also eliminates an obsolete provision concerning American hostages in Iran.

EFFECTIVE DATE: Upon passage, except the provisions concerning (1) the Teachers' Retirement Board and the State Employees Retirement Commission are effective July 1, 2011 and (2) the treasurer's authority to appoint personnel are effective October 1, 2011.

§§ 1 & 2—PERSONNEL

The bill authorizes the state treasurer to appoint investment personnel for duties beyond the investment of pension and trust funds. Under current law, the treasurer may appoint personnel only to invest pension and trust funds. Under current law and the bill, appointees serve at the pleasure of the treasurer.

The bill eliminates the requirement that the IAC approve the treasurer's appointees for principal investment officer, investment officer, and other personnel. It maintains the requirement for the chief investment officer and deputy chief investment officer appointees.

§§ 5 & 6—TEACHERS' RETIREMENT BOARD AND CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION

The bill replaces the social services commissioner with the state treasurer as one of two ex-officio members of the Teachers' Retirement Board. It specifies that the two ex-officio members have voting privileges. By law, the education commissioner is the other ex-officio voting member. The board manages the Teachers' Retirement System.

The bill increases, from six to seven, the size of the State Employees Retirement Commission by adding the treasurer, or her designee, as an ex-officio, voting member. The commission administers the State Employees Retirement System, the Municipal Employees Retirement System, and all other state retirement and pension plans, except the

Teachers' Retirement System.

§§ 3 & 4—DIVESTMENT FROM COMPANIES DOING BUSINESS IN IRAN OR SUDAN

With respect to Iran, current law requires the state treasurer to review the state's major investment policies to ensure that state funds are not invested in corporations engaged in business in Iran that could be considered contrary to U.S. national interests. With respect to Sudan, existing law (1) allows the state treasurer to divest, or decide against further or future investments of, state funds in any company doing business in Sudan and (2) requires her to divest and halt further investments in any security or instrument issued by Sudan.

The bill makes the law on Iran parallel to the law on Sudan. It requires the treasurer to review major investment holdings, instead of policies, for purposes of divesting and halting further investments in any security or instrument issued by Iran. It allows her to divest, or decide against further or future investments of, state funds in any company engaged in any form of commerce in Iran, including maintaining equipment, facilities, personnel, or other business or commerce apparatus in Iran, including leasing or owning real or personal property or engaging in any business activity with its government (i.e., companies doing business in Iran).

A "company" is any for-profit corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution, or other entity or business association, including its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates.

Iran Divestment

The bill requires the treasurer to (1) determine the extent of the state's investment in companies doing business in Iran and (2) encourage such companies in which the state is invested to act responsibly and not take actions that promote or otherwise enable Iran's development of nuclear weapons or terrorism. The treasurer must offer the encouragement whenever feasible and in a manner consistent with her fiduciary duties. The treasurer may determine the companies doing business in Iran from the U. S. Treasury's Office of Foreign Assets Control or from her own review.

The treasurer must divest and not invest further in any Iranian-issued security or investment. She may divest, or decide against future investments of, state funds in any company doing business in Iran after various considerations. Among other things, she must consider:

1. revenue the company paid directly to the Iranian government;
2. whether the company demonstrates complicity with an Iranian organization that the U.S. government identifies as terrorist;
3. whether the company knowingly obstructs lawful inquiries into its operations and investments in Iran;
4. whether the company attempts to circumvent any applicable U.S. sanctions;
5. the extent of any humanitarian activities the company undertakes in Iran;
6. whether the federal government authorizes the company to do business in Iran; and
7. any other factor the treasurer deems prudent.

If the company's business in Iran involves (1) oil-related activities, (2) mineral extraction activities, (3) investments that directly and significantly contribute to the development of Iran's petroleum resources, or (4) any other activity on which the U.S. government has imposed economic sanctions, the treasurer must consider if its transactions involve (1) contracts with, or the provision of supplies or services to, the Iranian government; (2) companies in which the Iranian government has any direct or indirect equity share; (3) consortia or projects commissioned by the Iranian government; or (4) companies involved in consortia or projects commissioned by the Iranian government.

If the treasurer decides to divest the state's funds, she must give the company notice that the state will divest as long as it continues to do business in Iran.

As used above, "mineral extraction activities" are activities such as exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals, associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, silver, tungsten, uranium, and zinc; as well as facilitating these activities, including providing supplies or services in their support. "Oil-related activities" include activities such as (1) owning rights to oil blocks (areas with oil fields); (2) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading oil; (3) constructing, maintaining, or operating a pipeline, refinery, or other oil field infrastructure; and (4) facilitating these activities, including providing supplies and services to support them. Oil-related activities do not include selling retail gasoline and related consumer products. "Petroleum resources" are petroleum, petroleum byproducts, or natural gas.

At least once per fiscal year the treasurer must report to the IAC on her actions regarding companies doing business in Iran.

These provisions have no effect if (1) the U. S. State Department removes Iran from its State Sponsors of Terrorism List (see BACKGROUND) and (2) the U. S. president certifies to the appropriate Congressional committee that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.

Sudan Divestment

The bill makes changes to definitions under a parallel law concerning divestment of state funds from companies doing business in Sudan. In doing so, it expands "doing business in Sudan" to mean commerce in any form, including leasing property, and "companies" to include an entity, its wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, and affiliates that exist to make a profit.

BACKGROUND

State Sponsors of Terrorism

Countries that the U.S. Secretary of State determines have repeatedly provided support for acts of international terrorism are designated "state sponsors of terrorism." Such a designation results in four main sanctions: (1) restrictions on U.S. foreign assistance; (2) a ban on defense exports and sales; (3) certain controls over exports of dual-use items; and (4) miscellaneous financial and other restrictions. In addition, other sanctions penalize persons and countries engaging in certain trade with state sponsors. There are currently four designated countries: Cuba, Iran, Sudan and Syria.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute				
Yea	15	Nay	0	(03/07/2011)